

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: St Paul District
FILE NUMBER: 04-161321-DJP

REGULATORY PROJECT MANAGER: Dale J. Pfeiffle **Date:** February 22, 2005

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** February 22, 2005
 At the project site (Y/N) **Date:**

PROJECT LOCATION INFORMATION:

State: Wisconsin
County: Waukesha
Center coordinates of site by latitude & longitudinal coordinates: 43.1229883468N, 88.1341702249W
Approximate size of site/property (including uplands & in acres): 35
Name of waterway or watershed: Upper Fox, Illinois, Wisconsin

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved X.

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs) A wetland delineation report was received for jurisdictional review and concurrence. The wetland delineation report identified two separate wetlands at the 35 acre project site. The first wetland is located within a depressional area along the western edge of the property. It appears that adjacent public road has blocked drainage and resulted in the creation of 0.23 acre of wetland. A review of aerial photography from 1970, 1990, 1985, and 2000, a local topographic map, the local soils map, and information in the wetland delineation report failed to identify a surface water connection between the depressional wetland and a water of the US. In addition, the depressional wetland lacks a connection to interstate commerce and is not adjacent to a water of the US. Therefore, this 0.23 acre wetland is isolated.

The second 7 to 8 acre wetland complex is adjacent to an unnamed tributary to the Fox River, a navigable water of the US and is subject to Corps jurisdiction. The project site is under consideration for a residential development. Development plans that would identify potential wetland impacts were not provided with the delineation report.